



U.S. Citizenship and Immigration Services

STATEMENT

OF

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U.S. DEPARTMENT OF HOMELAND SECURITY

REGARDING A PROPOSAL TO

ADJUST THE IMMIGRATION BENEFIT APPLICATION AND PETITION

FEE SCHEDULE

BEFORE THE

HOUSE JUDICIARY COMMITTEE

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER

SECURITY, AND INTERNATIONAL LAW

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2141 RAYBURN HOUSE OFFICE BUILDING

Good afternoon Chair Lofgren, Ranking Member King, and Members of the Subcommittee. My name is Emilio Gonzalez, and I am the Director of United States Citizenship and Immigration Services (USCIS). I am accompanied today by the USCIS Chief Financial Officer (CFO), Rendell Jones, and Associate Director for Domestic Operations, Michael Aytes. I appreciate the opportunity to testify today regarding USCIS' proposal to adjust the immigration benefit application and petition fee schedule.

In his FY 2007 Budget request, the President called for USCIS to reform its fee structure - in line with Federal fee guidelines¹ - to ensure the recovery of operational costs. This followed a January 2004 Government Accountability Office (GAO) report² to the House and Senate Judiciary Committees that indicated that USCIS' fees were insufficient to fund our operations. As a result, the GAO recommended that USCIS "perform a comprehensive fee study to determine the costs to process new immigration applications." Consistent with that direction, USCIS undertook a careful and comprehensive fee review to revise its application and petition fees to ensure it recovers its full business costs. The proposed rule, published in the Federal Register³ on February 1st, reflects the application of that review to the current fee schedule.

The proposed fee structure will allow USCIS to strengthen the security and integrity of our immigration system, improve customer service, and modernize business operations for the 21st century. Specifically, the new fee structure will enable USCIS to:

- 1) Improve the integrity of our immigration system by increasing fraud prevention and detection efforts and expanding national security enhancements;
- 2) Reduce processing times for all immigration applications by an average of 20 percent by the end of FY 2009;
- 3) Address performance gaps identified by the Government Accountability Office, DHS Inspector General, and the USCIS Ombudsman;
- 4) Upgrade facilities and provide better training to ensure a skilled workforce; and
- 5) Automate USCIS business operations and modernize information technology (IT) infrastructure, reducing unacceptable paper-based processes.

While these initiatives are characterized as enhancements when compared to our current resources and operations, they are critical investments necessary to meet our current mission requirements.

¹ Office of Management and Budget (OMB) Circular No. A-25 ("User Charges") directs federal agencies to charge the "full cost" of providing special benefits to a recipient when calculating fees. "Full cost" is defined as "all direct and indirect costs to any part of the Federal Government of providing a good, resource or service."

² See GAO, Immigration Application Fees: Current Fees are Not Sufficient to Fund U.S. Citizenship and Immigration Services' Operations (GAO-04—309R, Jan. 5, 2004).

³ Department of Homeland Security, U.S. Citizenship and Immigration Services, 8 CFR Part 103, Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule, Proposed Rule, 72 Fed. Reg. 4887 (Feb 1, 2007).

With regard to reducing processing times, the proposed fee increase, if implemented in full this summer, will enable a 20 percent reduction in average application processing times by the end of fiscal year 2009, and will cut processing times by the end of fiscal year 2008 for four key application types that represent a third of all applications filed. These application types are the I-90 (Renew / Replace Permanent Resident Card), I-140 (Immigration Petition for Alien Worker) and I-485 (Adjustment of Status to Permanent Resident), which will improve from six to four months processing time, and the N-400 (Naturalization), which will improve from seven to five months processing time.

At the outset, I want to emphasize that USCIS published the regulation as a proposed rule with a public comment period of 60 days. This means that no fee changes will go into effect until USCIS receives and analyzes comments and suggestions from the public, and I can assure you that USCIS is actively seeking feedback to the proposal. After analysis of those comments, USCIS will draft and publish a final rule reflecting the public input and will provide an additional 60 days before implementation of any new fee schedule. While USCIS loses \$3 million every day under the current fee schedule, it is important that the public have an opportunity to weigh in on the proposal before any changes are made.

I also want to clarify that USCIS' current procedure of exempting refugee and asylum applicants from paying the fee for certain immigration benefit applications and petitions, and waiving fees for various classes of applicants, such as those filing for military naturalization, will continue. Moreover, the rule proposes other improvements to the fee waiver process. For example, it would exempt certain particularly vulnerable applicant groups from paying a fee, such as Victims of Human Trafficking (T non-immigrant visa) and applicants who self-petition under the Violence Against Women Act.

Another common sense improvement to the fee waiver process is to limit fee waivers to specific situations where one's inability to pay is consistent with the requirements for the benefit sought. For instance, if someone is sponsoring a relative to immigrate to this country and files an affidavit of support attesting that the beneficiary will not become a public charge, then it is counterintuitive that the same petitioner cannot afford the filing fee. Similarly, a business that attests to the ability to pay prevailing wages should not be able to file a fee waiver. Where fee waivers are applicable, USCIS will consider all factors, circumstances, and evidence supplied by the applicant including age, disability, household income, and qualification within the past 180 days for a federal means tested benefit.

I recognize that this proposed fee structure will increase costs for many legally seeking immigration benefits, including those seeking to become citizens. The proposal reflects an average weighted increase for application and petition fees of approximately 86 percent. However, the proposed rule will re-package the adjustment of status application to include interim benefits, specifically work authorization and advanced parole, without separate fees, at no additional cost. Taking this modification into

account, the actual average increase in costs to applicants and petitioners will be 66 percent.

The alternative – asking USCIS to continue to charge fees that do not cover operational costs – would have disastrous consequences resulting in a less secure and more inefficient immigration system. In addition, it would seriously degrade service delivery and cause applicants to wait longer for benefits that are crucial to their lives and livelihood. And changes to the USCIS fee structure are long overdue. The last comprehensive fee adjustment based on a comprehensive fee study occurred in 1998 when fees were increased by an average of 76 percent. USCIS has periodically adjusted fees since this time, but these adjustments never fully recovered or kept up with costs. As mentioned above, GAO found that our fees were insufficient to recoup our operating expenses and that remains true today despite a fee increase in April 2004 and an inflationary increase in October 2005.

The immigration benefits that USCIS confers are extremely valuable, and it is appropriate that prospective immigrants bear the full costs of the services provided. Law and policy have therefore long dictated that the costs of providing immigration benefits be borne by those applying for them. Part of the funding problem USCIS has faced recently has been a reliance on temporary funding sources, including appropriated funding. This new fee schedule will establish a more stable source of funding. Therefore, as the number of applications increase, USCIS will be able to respond to workload changes and will no longer have to sacrifice customer service or rely on unreliable funding sources.

USCIS has demonstrated that it is capable of putting the increased revenue to good use and that the public and USCIS's customers will see concrete benefits from the new fee structure. I am pleased to report to the Subcommittee that, with the infusion of \$460 million in appropriated resources over the past 5 years, USCIS was able to achieve the President's goal of a six-month or better processing time for nearly all immigration applications. By the end of FY 2006, the backlog had fallen from a high of 3.8 million cases in January 2004 to less than 10,000. The proposed fee rule will allow USCIS to build on this success and further reduce processing times allowing us to better serve our customers.

USCIS has made other customer service improvements over that time as well, including establishing online filing, online case updates, INFOPASS appointments, change of address online, as well as the introduction of a broad range of fact sheets to help people understand various benefits, eligibility criteria and USCIS procedures so they can better choose their way ahead. These improvements demonstrate what USCIS can do, and with the proposed new fees we can deliver far more significant improvements.

The improvement to our nation's immigration system resulting from the increased revenue generated by this rule will support increased security and fundamentally overhaul and automate USCIS business operations, all of which will greatly strengthen USCIS' ability to perform its mission and put the agency in a better position to support

possible future legislative reforms. However, this fee rule is designed to close performance and security gaps that exist today and does not assume passage of legislation.

USCIS is required by law to update its fees at least once every two years and has established a dedicated staff in the Office of the Chief Financial Officer to ensure that all future updates are made through a comprehensive analysis. We are also firmly committed to seeking new ways of doing business and reengineering processes in order to contain costs and pass on the savings to all of our customers, and the new fee structure will enable USCIS to make improvements that will ultimately help reduce agency costs. Productivity enhancements which affect hours per completion calculations produce lower cost per unit. Process improvements implemented over the past several years, as well as projected productivity increases, were taken into account in the current fee study, keeping fees lower than they might otherwise have been. Specifically, this proposed fee increase reflects our commitment to a projected 4% increase in productivity for adjustment of status cases, and a 2% increase in productivity for all other products. USCIS will remain accountable for these projected productivity increases in order for fees to support operations as intended.

I am aware that a few vocal opponents have suggested that the proposed fee schedule represents a government-imposed obstacle to legal immigration or citizenship. I respectfully disagree and can assure you that this proposal is being made only after diligent consideration of the results of a comprehensive fee review launched early in 2006. By recovering the full costs of doing business, this rule will enable USCIS to reduce processing times and improve customer service and, in the long run, make the legal immigration process more secure, efficient and welcoming to all immigrants.

The Administration is dedicated to comprehensive reform of America's immigration laws by increasing border security, while maintaining the Nation's tradition of welcoming immigrants who enter the country legally. For immigration reform to succeed, it must be based on five pillars: 1) strengthening security at the borders; 2) substantially increasing enforcement in the interior to remove those who are here illegally, and to prevent employers from deliberately or inadvertently hiring illegal immigrants; 3) implementing a Temporary Worker Program to provide a legal channel for employers to hire foreign workers to do jobs Americans are unwilling to do; 4) addressing the millions of illegal immigrants already in the country; and 5) helping new immigrants assimilate into American society. The Administration's plan will deter and apprehend migrants attempting to enter the country illegally and decrease crime rates along the border. The plan also will serve the needs of the economy by allowing employers to hire legal foreign workers on a temporary basis when no American is willing to take the job, bring illegal immigrants out of the shadows without providing amnesty, and restore public confidence in the Federal Government's ability to enforce immigration laws.

I am pleased to take any questions you may have at this time.